

Reinventing the European Union through Article 50?

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Yesterday's print version of FAZ reported a short speech on European (dis)integration by Lech Wałęsa, held a few days ago at the Usedom music festival (19 October 2020 S. 14; [video recording](#) at 14:44 to 20:33). He reminded his audience of the role which his generation and his country had played in overcoming European divisions and called for Germans to take a leading role in the fight against populist politics set to undermine the foundations of the European Union. None of this was likely to raise objections from music lovers on the Baltic coast, or from readers of Verfassungsblog. The revolutionary bit was his practical recommendation: If member states under the leadership of Germany, France and Italy cannot bring about the necessary structural changes, the European Union must be destroyed and recreated on a more solid institutional basis that will only be open to countries willing to adhere to the revised principles.

In a European Union where treaty reform is now widely regarded as a practical impossibility, the radical approach of institutional reform through abandonment of the current treaties deserves serious consideration. The obvious path to implement such a strategy would be to combine coordinated withdrawals by all concurring member states with the pre-packaged adoption of a new set of treaties establishing the revised framework. While this sounds unconventional at best and would no doubt be a daunting exercise, it would allow members states and the European citizenry to draw the lessons from two decades of infighting, and to have a fresh debate on what the European Union can and should be about. It should also help to restore clarity to the language of the treaties, which has largely been lost in alternating attempts to please European citizens with lofty principles and national bureaucracies with minute detail.

To be clear, most of the *acquis communautaire* could safely be expected to survive such a renaissance, even though it might also be a good opportunity to push parts of the primary legislation to the secondary level. Whether it should lead to additional integration, or simply to a more flexible and coherent institutional framework, would be up for debate. But that's a debate worth having, and one that would greatly benefit from a clean slate approach.

Even if the result is likely to be more complex than the simple decalogue imagined by Lech Wałęsa, reducing the complexity of primary legislation to the level found in national constitutions sounds like a realistic goal. If done well, the new set of rules might even achieve universal consensus and thereby spare everyone the hassle of going through formal Article 50 procedures. Otherwise the European Union would have to engage in a type of reverse Brexit process whereby concurring member states might eventually have to pay off those set on opting out of the project. But that

exercise would hardly be more difficult than the current negotiations with the United Kingdom. And it would certainly be easier than bringing down the iron curtain.

